



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: First Commercial Real Estate Services

File: B-245183

Date: November 7, 1991

Mark B. Warlick for the protester,
Manuel B. Oasin, Esq., and Robert J. McCall, Esq., General
Services Administration, for the agency,
C. Douglas McArthur, Esq., Office of the General Counsel,
GAO, participated in the preparation of the decision.

DIGEST

Protest must be filed with either the agency or the General Accounting Office no later than 10 working days after protester is orally notified of basis of rejection of its proposal.

DECISION

First Commercial Real Estate Services protests the rejection of its proposal submitted in response to solicitation for offers (SFO) No. MVA89033, issued by the General Services Administration. The protester argues that the agency should have considered First Commercial's low price before rejecting its proposal as technically unacceptable.

We dismiss the protest as untimely.

On April 15, 1991, the agency issued the solicitation for a 10-year lease, with termination rights after the 5th year, for a minimum of 23,400 to a maximum of 24,135 net usable square feet of office space. The solicitation provided for award to the responsible offeror whose offer conforming to the solicitation was most advantageous to the government, price and other factors considered; among these other factors were ease and efficiency of layout--the offeror's ability to easily and efficiently house the government's needs in the offered space--with a specific requirement for a 25-foot minimum spacing between columns.

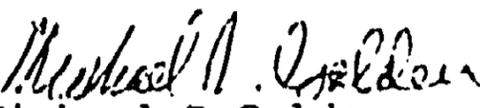
The agency received initial offers on May 15, and after an initial review of offers, advised the protester that its proposed building did not meet solicitation requirements for ease and efficiency of layout, specifically, the requirement for a 25-foot minimum spacing between columns. The

protester submitted a revised offer on June 6, but in a telephone conversation of June 19, the agency realty specialist advised the protester that the agency had determined the building "non-conforming," and the reasons why the building was unacceptable. On June 27, the agency realty specialist, responding to a telephone call from First Commercial's architect, also provided to the architect the reasons for the unacceptability of the building. By letter of July 11, the protester asked the contracting officer to reconsider its rejection of the protester's offer; on July 25, again by telephone, the agency advised the protester that it would not change its position, that it had eliminated the protester's proposal from consideration and would not negotiate with the protester further. First Commercial filed this protest on August 12.

Under our Bid Protest Regulations, 4 C.F.R. § 21.2(a) (2) (1991), protests (other than protests against alleged solicitation improprieties) must be filed with the agency or our Office no later than 10 working days after the protester knew or should have known of the basis of protest. A protester's receipt of oral information forming the basis of protest is sufficient to start the 10-day time period running; written notification is not required. Swafford Indus., B-238055, Mar. 12, 1990, 90-1 CPD ¶ 268.

If First Commercial's July 11 letter is not considered a protest,¹ First Commercial's protest to our Office on August 12 is untimely since First Commercial first learned that the agency had decided to eliminate its proposal from further consideration on June 19. If viewed as an agency-level protest, it is still untimely since it was filed more than 3 weeks after the agency notified the protester of the rejection of its proposal.

The protest is dismissed.


Michael R. Golden
Assistant General Counsel

¹First Commercial refers to this correspondence as an amendment of its proposal.